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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,323	02/27/2004	Patrycjusz Kosun	LAC201T3	8824
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HORST KASPER				
13 FOREST DRIVE				
WARREN, NJ 07059				
			EXAMINER	
			LIANG, REGINA	
			ART UNIT	PAPER NUMBER
			2629	
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			12/29/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/790,323	KOSUN, PATRYCJUSZ	
	Examiner	Art Unit	
	Regina Liang	2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to amendment filed 9/9/09. Claims 27-55 are pending in the application. Claims 1-26 have been cancelled.

Claim Objections

2. Claims 27-55 are objected to because of the following informalities: the reference numerals recited in the claims are not found in the drawings. Appropriate correction is required.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

4. Claims 27-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobachi et al (US 6,326,948 hereinafter Kobachi) in view of Leung (US 6,388,655).

As to claim 27, Fig. 28 of Kobachi discloses a computer pointing devices consist of a base (4), a mobile control component (1) and a movement detector (S), characterized in that the control component (1) is connected to the base (4) in a way which forces it to move within a segment of a sphere.

Kobachi does not disclose the concave part of the segment of the sphere faces on the base. However, Leung teaches an input device having a control component (user-manipulable member 182 in Figs. 18, 19 or 242 in Figs. 21, 22) having spherical exterior contract surface to allow the control component to move within a segment of a sphere (the control component has alternatively a convex spherical exterior contract surface 184 as shown in Figs. 18 and 19 or a concave spherical exterior contact surface 244 as shown in Figs. 21 and 22). In the embodiment

Art Unit: 2629

as shown in Figs. 21 and 22, Leung teaches the control component has a concave spherical exterior contact surface such that the concave part of the segment of the sphere faces on the base. Leung further teaches that convexity is not a constraint to the contact surface and that a spherical concave contact surface would perform equally well (e.g. col. 14 lines 1-5). Thus, in view of Leung's teaching, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the computer pointing device of Kobachi to have the concave part of the segment of the sphere faces on the base as taught by Leung since Leung taught that convexity is not a constraint to the contact surface and that a spherical concave contact surface would perform equally well in providing the same touch control in a user interface with kinesthetic and tactile feedback. In addition, a change in shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

As to claim 28, Figs. 21 and 22 of Leung teaches the control component (242) has the form of a concave meniscus.

As to claim 29, Figs. 21 and 22 of Leung teaches the concave meniscus has got the shape of the sphere sector.

As to claims 30, 31, Fig. 28 of Kobachi teaches the base (4) has got an opening through which the connector joining the control component (1) with a protection preventing the disconnection between the control component (1) and the base (4).

As to claims 32, 33, Fig. 28 of Kobachi teaches the control component (1) has got an opening through which passes the connector joining the control component (1) with a protection preventing disconnection between the control component (1) and the base (4).

Art Unit: 2629

As to claims 34, 35, Fig. 28 of Kobachi teaches that the base (4) has got a slot.

As to claims 36, 37, Fig. 28 of Kobachi teaches the control element (1) has got a slot.

As to claims 38, 39, Fig. 28 of Kobachi teaches a mobile connector passes through the slot of the base (4) and through the slot of the control component (1) preventing disconnection between the control component (1) and the base (4).

As to claims 40, 41, Fig. 28 of Kobachi teaches a mobile connector passes through the slot of the base (4) and through the slot of the control component (1) preventing disconnection between the control component (1) and the base (4).

As to claims 42, 43, Fig. 28 of Kobachi teaches the base (4) has got a permanently fixed connector.

As to claims 44, 45, Fig. 28 of Kobachi teaches the connector ends in a bar with a slot.

As to claims 46, 47, Fig. 28 of Kobachi teaches the control component (1) has got an opening into which the connector is inserted.

As to claims 48, 49, Fig. 28 of Kobachi teaches a transverse bar is installed over the control component (1) opening, joined to the connector in a way which prevents disconnection between the control component (1) and the base (4).

As to claim 50, Fig. 28 of Kobachi teaches at the point of junction of the base (4) and the control component (1) two perpendicularly joined bars are placed.

As to claim 51, Fig. 28 of Kobachi teaches the bars have a shape corresponding to the sphere segment.

As to claims 52, 53, Fig. 28 of Kobachi teaches the bars are joined by means of a connector which enables their free movement.

Art Unit: 2629

As to claim 54, Fig. 28 of Kobachi teaches one bar is connected to the base (4) and the other bar is connected to the control component (1).

As to claim 55, Kobachi as modified by Leung does not disclose the shape and the size of the control component (1) is adjusted to the shape and the size of the user's hand, finger or fingers. However, it would have been an obvious matter of design choice to modify Kobachi as modified by Leung to have the shape and the size of the control component is adjusted to the shape and the size of the user's hand, finger or fingers as claimed, since such a modification would have involved a mere change in the size or shape of a component. A change in size or a shape is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955) and *In re Dailey*, 149 USPQ 47 (CCPA 1976).

Response to Arguments

5. Applicant's arguments with respect to claims 27-55 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

Art Unit: 2629

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Regina Liang whose telephone number is (571) 272-7693. The examiner can normally be reached on Monday-Friday from 8AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe, can be reached on (571) 272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Regina Liang/
Primary Examiner, Art Unit 2629